

§ 111.29

19 CFR Ch. I (4–1–02 Edition)

or other direct or indirect interest in the business of a broker.

§ 111.29 Diligence in correspondence and paying monies.

(a) *Due diligence by broker.* Each broker must exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of records relating to any customs business matter handled by him as a broker. Payment of duty, tax, or other debt or obligation owing to the Government for which the broker is responsible, or for which the broker has received payment from a client, must be made to the Government on or before the date that payment is due. Payments received by a broker from a client after the due date must be transmitted to the Government within 5 working days from receipt by the broker. Each broker must provide a written statement to a client accounting for funds received for the client from the Government, or received from a client where no payment to the Government has been made, or received from a client in excess of the Governmental or other charges properly payable as part of the client's customs business, within 60 calendar days of receipt. No written statement is required if there is actual payment of the funds by a broker.

(b) *Notice to client of method of payment—*(1) All brokers must provide their clients with the following written notification:

If you are the importer of record, payment to the broker will not relieve you of liability for Customs charges (duties, taxes, or other debts owed Customs) in the event the charges are not paid by the broker. Therefore, if you pay by check, Customs charges may be paid with a separate check payable to the "U.S. Customs Service" which will be delivered to Customs by the broker.

(2) The written notification set forth in paragraph (b)(1) of this section must be provided by brokers as follows:

(i) On, or attached to, any power of attorney provided by the broker to a client for execution on or after September 27, 1982; and

(ii) To each active client no later than February 28, 1983, and at least once at any time within each 12-month

period after that date. An active client means a client from whom a broker has obtained a power of attorney and for whom the broker has transacted customs business on at least two occasions within the 12-month period preceding notification.

§ 111.30 Notification of change of business address, organization, name, or location of business records; status report; termination of brokerage business.

(a) *Change of address.* When a broker changes his business address, he must immediately give written notice of his new address to each director of a port that is affected by the change of address. In addition, if an individual broker is not actively engaged in transacting business as a broker and changes his non-business mailing address, he must give written notice of the new address in the status report required by paragraph (d) of this section.

(b) *Change in an organization.* A partnership, association, or corporation broker must immediately provide written notice of any of the following to the director of each port through which it has been granted a permit:

(1) The date on which a licensed member or officer ceases to be the qualifying member or officer for purposes of § 111.11(b) or (c)(2), and the name of the broker who will succeed as the qualifying member or officer; and

(2) Any change in the Articles of Agreement, Charter, or Articles of Incorporation relating to the transaction of customs business, or any other change in the legal nature of the organization (for example, conversion of a general partnership to a limited partnership, merger with another organization, divestiture of a part of the organization, or entry into bankruptcy protection).

(c) *Change in name.* A broker who changes his name, or who proposes to operate under a trade or fictitious name in one or more States within the district in which he has been granted a permit and is authorized by State law to do so, must submit to the Office of Field Operations, U.S. Customs Service, Washington, DC 20229, evidence of his authority to use that name. The

name must not be used until the approval of Headquarters has been received. In the case of a trade or fictitious name, the broker must affix his own name in conjunction with each signature of the trade or fictitious name when signing customs documents.

(d) *Status report*—(1) *General*. Each broker must file a written status report with Customs on February 1, 1985, and on February 1 of each third year after that date. The report must be accompanied by the fee prescribed in § 111.96(d) and must be addressed to the director of the port through which the license was delivered to the licensee (see § 111.15). A report received during the month of February will be considered filed timely. No form or particular format is required.

(2) *Individual*. Each individual broker must state in the report required under paragraph (d)(1) of this section whether he is actively engaged in transacting business as a broker. If he is so actively engaged, he must also:

(i) State the name under which, and the address at which, his business is conducted if he is a sole proprietor;

(ii) State the name and address of his employer if he is employed by another broker, unless his employer is a partnership, association or corporation broker for which he is a qualifying member or officer for purposes of § 111.11(b) or (c)(2); and

(iii) State whether or not he still meets the applicable requirements of § 111.11 and § 111.19 and has not engaged in any conduct that could constitute grounds for suspension or revocation under § 111.53.

(3) *Partnership, association or corporation*. Each corporation, partnership or association broker must state in the report required under paragraph (d)(1) of this section the name under which its business as a broker is being transacted, its business address, the name and address of each licensed member of the partnership or licensed officer of the association or corporation who qualifies it for a license under § 111.11(b) or (c)(2), and whether it is actively engaged in transacting business as a broker, and the report must be signed by a licensed member or officer.

(4) *Failure to file timely*. If a broker fails to file the report required under paragraph (d)(1) of this section by March 1 of the reporting year, the broker's license is suspended by operation of law on that date. By March 31 of the reporting year, the port director will transmit written notice of the suspension to the broker by certified mail, return receipt requested, at the address reflected in Customs records. If the broker files the required report and pays the required fee within 60 calendar days of the date of the notice of suspension, the license will be reinstated. If the broker does not file the required report within that 60-day period, the broker's license is revoked by operation of law without prejudice to the filing of an application for a new license. Notice of the revocation will be published in the Customs Bulletin.

(e) *Custody of records*. Upon the permanent termination of a brokerage business, written notification of the name and address of the party having legal custody of the brokerage business records must be provided to the director of each port where the broker was transacting business within each district for which a permit has been issued to the broker. That notification will be the responsibility of:

(1) The individual broker, upon the permanent termination of his brokerage business;

(2) Each member of a partnership who holds an individual broker's license, upon the permanent termination of a partnership brokerage business; or

(3) Each association or corporate officer who holds an individual broker's license, upon the permanent termination of an association or corporate brokerage business.

§ 111.31 Conflict of interest.

(a) *Former officer or employee of U.S. Government*. A broker who was formerly an officer or employee in U.S. Government service must not represent a client before the Treasury Department or any representative of the Treasury Department in any matter to which the broker gave personal consideration or gained knowledge of the facts while in U.S. Government service, except as provided in 18 U.S.C. 207.